

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JENNIFER DIXON,)
vs. Plaintiff,)
LIBERTY MUTUAL FIRE)
INSURANCE COMPANY,)
Defendant.) Case No. CIV-08-296-M

ORDER

Before the Court is defendant's Motion for Reconsideration and Modification of the Court's Order, filed November 5, 2010. On November 23, 2010, plaintiff filed her response. Based upon the parties' submissions, the Court makes its determination.

Defendant moves the Court to reconsider and modify its Order entered on October 26, 2010, finding certain documents are discoverable and others are protected by the attorney-client privilege or work product doctrine. "Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct error or prevent manifest injustice." *Servants of the Paraclete v. John Does I-XVI*, 204 F.3d 1005, 1012 (10th Cir. 2000). A motion to reconsider is appropriate "where the court has misapprehended the facts, a party's position, or the controlling law" but is not appropriate "to revisit issues already addressed or advance arguments that could have been raised in prior briefing." *Id.*

Having carefully reviewed defendant's motion, the Court finds no grounds warranting reconsideration in the case at bar. Specifically, the Court finds no intervening change in the controlling law, no new evidence previously unavailable, and no need to correct clear error or prevent manifest injustice. The Court further finds it did not misapprehend the facts, it did not

misapprehend defendant's position, and it did not misapprehend the controlling law. In its motion, defendant simply revisits issues that were addressed in the Court's October 26, 2010 Order and advances arguments that could have been raised in prior briefing. Additionally, in its motion, defendant asserts that certain documents determined by the Court not to be privileged are in fact privileged when viewed in context; however, defendant had the opportunity to present this Court with the appropriate context in response to plaintiff's Motion for *In Camera* Review. Defendant is simply attempting to submit the brief it should have filed in response to plaintiff's original motion.

Accordingly, the Court DENIES defendant's Motion for Reconsideration and Modification of the Court's Order [docket no. 196].

IT IS SO ORDERED this 6th day of December, 2010.



VICKI MILES-LAGRANGE
CHIEF UNITED STATES DISTRICT JUDGE